

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested. Claims 1-8 are pending in the present application. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 1-5, 7 and 8 stand rejected under 35 U.S.C §102 as being unpatentable over Levine (U.S. Patent No. 5,692,214, hereinafter Levine); and Claim 6 stands rejected under 35 U.S.C. §103 as being unpatentable over Levine in view of Saward (U.S. Patent No. 5,537,473, hereinafter Saward).

REJECTION UNDER 35 U.S.C. § 102

The outstanding Official Action has rejected Claims 1-5, 7, and 8 under 35 U.S.C. § 102 as being anticipated by Levine. The Official Action asserts that Levine discloses all of the Applicants' claim features. Applicants respectfully traverse the rejection.

Amended Claim 1 recites, *inter alia*, an information processing apparatus, including:

... code information acquiring means for acquiring, on the basis of said identification information acquired by said identification information acquiring means, code information for controlling said recording apparatus, said code information being automatically obtained from a server apparatus if unavailable in a local memory, said code information correspondingly employed with said control information acquired by said control information acquiring means. . . (emphasis added)

Levine describes a system for enabling an unattended recording of a program to a video tape recording device. A television recording and receiving system (10) includes a television receiver (12), a video cassette recorder (14), and a cable tuner and descrambler box (16). A personal computer (18) is provided with an application program for implementing the program schedule for use in conjunction with the television recording and receiving system. In operation, the personal computer accesses a remote database (40) for obtaining a

program schedule.¹ The IR unit (26) transmits control signals to the VCR for initiating a recording operation based upon a predetermined program schedule, as selected by a user. To perform a transmission function, the personal computer requires information as to the nature of the remote control codes used by the video recorder and/or the cable box. This information is provided during a routine of the application program, in which the operator keys in the identification of the make and model of the VCR and cable box.² Alternatively, the appropriate codes may be learned from operation of a remote control in conjunction with the IR sensor (32).³

Conversely, in an exemplary embodiment of the Applicants' invention, an information processing apparatus is provided, **in which code information corresponding to a recording apparatus is automatically obtained from a server if the code information corresponding to the recording apparatus is not available in a local memory of the information processing apparatus.**⁴

In the Official Action of January 28, 2008, it was noted that:

In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2.d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Applicant argues that Levine in column 4, line 65 to column 5, line 12, discloses a device that performs the opposite actions (namely having the user enter codes using a remote) than the limitations found in the claims. As this section does not disclose this, it starts out with the word "Alternatively" which suggests to the Examiner that it is a different embodiment than found in column 4, lines 58-65, which does disclose the limitation found in the claim.

As correctly pointed out above, references may not be attacked individually when attempting to show nonobviousness. Of course, the Office should appreciate that the current

¹ Levine at Fig. 1; column 3, lines 7-53.

² Levine at column 4, lines 63-65.

³ Levine at column 4, line 65 through column 5, line 7.

⁴ Application at Fig. 5.

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response is made under 35 U.S.C. §102 not 35 U.S.C. §103. As such, the reference to *In re Keller* is clearly misguided.

With regard to the discussion of the disclosure found at column 4 of the Levine reference, Applicants agree that lines 58-65 describe obtaining data from a remote database. Alternatively, this data may be learned from the operation of the remote control in conjunction with a IR sensor (32) as noted above and stored locally. Thus, Applicants also agree that the terminology “alternatively” refers to these two, different methodologies. However, this fact supports the position advanced in the previous response.

Although the passage noted above states that “the Applicant argues that Levine in column 4, line 65 to column 5, line 12, discloses a device that performs the opposite actions and the limitations found in the claims”, Applicants made no such argument. Instead, Applicants noted that the two different embodiments clearly were inconsistent with the position taken in the Official Action of July 30, 2007.

Simply stated, the Official Action of July 30, 2007, took the position that the Levine reference as described at page 3 discloses:

as all the codes are received from the remote database, the codes will **always need to be obtained from a server** as they will never be stored in a local memory.

As, Applicants noted in the previous response other sections of that same paragraph of Levine describes that codes are stored locally. Namely, it is noted that remote control codes (e.g., specific commands for operating a device remotely) may be learned by prompting a user to press selected buttons on the remote controlled transmitter (52). For example, at column 5 lines 1-7, Figure 5 of Levine is referenced which illustrates a menu system by which an operator may be stepped through the process of pressing selected buttons on the remote control transmitter such that the codes are stored locally as noted at column 4, line 65 to column 5, line 12.

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The Official Action of July 30, 2007, took the position that codes will always need to be obtained from a server, in justifying the lack of consideration given the claim language “*in which code information corresponding to a recording apparatus is automatically obtained from a server if the code information corresponding to the recording apparatus is not available and the local memory of the information processing apparatus.*” Yet, the Official Action of January 28, 2008, now expresses an agreement with the Applicants position. As such, it is clear that the statement made in the Official Action of July 30, 2007 is no longer advanced by the Office. Therefore, the Applicants are at a loss to explain the statement at page 3 of the Official Action of January 28, 2008, which notes that:

as all the codes are received from the remote databases, the codes will always need to be obtained from a server as they will never be stored in a local memory.

This statement is clearly at odds with the language of page 2 which argues the exact opposite, consistent with the Applicants previous response. The Applicants claimed code information acquiring means automatically obtains from a server apparatus, **IF UNAVAILABLE IN A LOCAL MEMORY**, code information correspondingly employed with control information acquired by a control information acquiring means. Levine does not disclose or suggest **AUTOMATICALLY PROVIDING CODE INFORMATION** corresponding to a recording apparatus **WHEN THAT INFORMATION IS NOT AVAILABLE IN A LOCAL MEMORY**, Applicants respectfully submit that amended Claim 1, and any claim depending therefrom, is allowable over the cited reference. As independent Claims 7 and 8 recite substantially similar limitations to that discussed above, Applicants respectfully submit that these claims, and any claims depending therefrom, are likewise allowable over the cited references.

Accordingly, Applicants respectfully request that the rejection of Claims 1-8 under 35 U.S.C. § 102 be withdrawn.

REJECTION UNDER 35 U.S.C. § 103

The outstanding Official Action has rejected Claim 6 under 35 U.S.C. § 103 as being unpatentable over Levine in view of Saward. The Official Action cites Levine as disclosing all of the Applicants' claim limitations, with the exception of control information including a broadcast date. The Official Action cites Saward as disclosing this more detailed aspect of the Applicants' invention, and states that it would have been obvious to one skilled in the art at the time the invention was made to combine the cited references for arriving at the Applicants' claim. Applicants respectfully traverse the rejection.

As noted above, Levine does not disclose all of the elements for which it has been asserted. As Saward does not remedy the deficiency discussed above, Applicants respectfully submit that a *prima facie* case of obviousness has not been presented. Accordingly, Applicants respectfully request that the rejection of Claim 6 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 1-8, is patentably distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,

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